

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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HOUSE BILL 227

Short Title: Mandate Misdemeanor First Appearance/48 Hours. (Public)

Sponsors: Representatives Morey, Rogers, Richardson, and Alston (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Judiciary 2, if favorable, Rules, Calendar, and Operations of the House

March 8, 2021

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE A FIRST APPEARANCE BEFORE A DISTRICT COURT JUDGE
3 FOR A DEFENDANT CHARGED WITH A MISDEMEANOR OFFENSE AND HELD IN
4 CUSTODY AND TO REQUIRE THAT A FIRST APPEARANCE FOR ANY CRIMINAL
5 CHARGE BE HELD WITHIN FORTY-EIGHT HOURS OF WHEN A DEFENDANT IS
6 TAKEN INTO CUSTODY.

7 The General Assembly of North Carolina enacts:

8 SECTION 1. G.S. 15A-601 reads as rewritten:

9 "**§ 15A-601. First appearance before a district court judge; ~~right in felony and other cases~~**
10 **~~in original jurisdiction of superior court; consolidation of first appearance~~**
11 **~~before magistrate and before district court judge; first appearance before clerk~~**
12 **~~of superior court; use of two-way audio and video transmission.~~**

13 (a) Any defendant charged in a magistrate's order under G.S. 15A-511 or criminal
14 process under Article 17 of this Chapter, Criminal Process, with a crime in the original
15 jurisdiction of the superior court must be brought before a district court judge in the district court
16 district as defined in G.S. 7A-133 in which the crime is charged to have been committed. This
17 first appearance before a district court judge is not a critical stage of the proceedings against the
18 defendant.

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20 (a3) Any defendant charged in a magistrate's order under G.S. 15A-511 or criminal
21 process under Article 17 of this Chapter, Criminal Process, with a misdemeanor offense and held
22 in custody must be brought before a district court judge in the district court district as defined in
23 G.S. 7A-133 in which the crime is charged to have been committed. This first appearance is not
24 a critical stage of the proceedings against the defendant.

25 (b) When a district court judge conducts an initial appearance as provided in
26 G.S. 15A-511, ~~he~~ the judge may consolidate those proceedings and the proceedings under this
27 Article.

28 (c) Unless the defendant is released pursuant to Article 26 of this Chapter, Bail, first
29 appearance before a district court judge must be held within ~~96-48~~ hours after the defendant is
30 taken into custody or at the first regular session of the district court in the county, whichever
31 occurs first. If the defendant is not taken into custody, or is released pursuant to Article 26 of this
32 Chapter, Bail, within ~~96-48~~ hours after being taken into custody, first appearance must be held at
33 the next session of district court held in the county. This subsection does not apply to a defendant
34 whose first appearance before a district court judge has been set in a criminal summons pursuant
35 to G.S. 15A-303(d).



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(e) ~~The~~ During regular business hours, the clerk of the superior court in the county in which the defendant is taken into custody may conduct a first appearance as provided in this Article if a district court judge is not available in the county within ~~96~~48 hours after the defendant is taken into custody. The clerk, in conducting a first appearance, shall proceed under this Article as would a district court judge."

SECTION 2. This act becomes effective December 1, 2021, and applies to criminal processes served on or after that date.